

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

**THURSDAY, THE SECOND DAY OF SEPTEMBER,
TWO THOUSAND AND FOUR**

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

WRIT PETITION NO : 12714 of 1993

Between:

P.Nagamuni, S/o P. Yellaiah, aged 30 years, working as
Assistant Technician in Non-conventional Energy Development
Corporation, A.P. Limited, Nuzvid, Krishna District

..... PETITIONER

AND

1. Non-conventional Engery Development Corporation of A.P.Ltd.
Hyderabad, Represented by its Managing Director,
2. Assistant Manager (Admn.) & Secretary I/c, Non-conventional
Energy Development Corporation of A.P. Ltd. Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the
circumstances stated in the Affidavit filed herein the High Court may be pleased to

grant any appropriate writ order or directing more particularly a writ of certiorary and call for the records on the file of the 1st Respondent in his proceedings in RCF:NEDCAP/PERS/BE/564/91-02/1314 DATED 26.7.1993 and quash the same and is illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India and also violative of all principles of natural justice and violative of Rule 19(2) of CCA Rules.

Counsel for the Petitioner: MR.A.SURYANARAYANA MURTHY

For the Respondents: NONE APPEARED.

The Court made the following :

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ORDER :

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This Writ Petition is filed challenging the order dated 26.7.1993 passed by the first respondent in proceedings RCF:NEDCAP/PERS/BE/564/91-02/1314 proposing to impose the punishment of dismissal from service.

2. The petitioner is working as Assistant Technician in Non-Conventional Energy Development Corporation, A.P. Limited, Nuzvid, Krishna District. While so, a charge memo was issued to the petitioner on 3.2.1993 alleging certain irregularities in discharge of his duties. To the said charge memo, he submitted a reply on 7.3.1993 and thereupon the management has recorded a finding provisionally dismissing him from service for the alleged irregularities. Accordingly, the respondents called upon the petitioner to submit his explanation. At that point of time, this writ petition is filed and this Court granted interim stay of all further orders.

3. The matter is coming after a lapse of nearly 11 years. The learned Counsel for the petitioner submits that issuing of the very show cause notice itself is illegal and inasmuch as it was not preceded by any regular enquiry. The punishment of dismissal being a major punishment, without conducting an enquiry, it is not proper on the part of the respondents to issue a notice for dismissal from service. Therefore, the order passed by the respondents is wholly without jurisdiction and arbitrary.

4. Even though, notices were served on the respondents, neither the counters have

been filed by them nor any counsel has represented the matter on behalf of the respondents.

5. I have perused the order under challenge and I find that the proceedings dated 26.7.1993 have been issued calling upon the petitioner to submit his explanation as to why the proposed punishment of dismissal should not be imposed, apart from recovery of Rs.6,666/- being the 50% of the loss caused to the Corporation, inasmuch as, no enquiry has been conducted. It is not appropriate on the part of the respondents to impose punishment of dismissal from service and on this ground alone without going into merits of the case, I am inclined to set aside the order passed by the first respondent. However, it is seen that the incident alleged to have taken place in 1992 and to conduct the enquiry at this belated stage, would not be proper in the interests of the employee and it would cause a serious prejudice to the employee. Under those circumstances, this Court is of the opinion that the loss which was alleged to have been caused to the Corporation shall be recovered and further proceedings shall stand dropped.

6. Accordingly, the Writ Petition is allowed. No costs.

G. BIKSHAPATHY, J

Dated:02 -09-2004

ccm

That, Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Thursday, the Second day of September, two Thousand and Four.

ASSISTANT REGISTRAR

To:

1. The Managing Director, Non-conventional Energy Development Corporation of A.P. Ltd. Hyderabad,
2. The Assistant Manager (Admn.) & Secretary I/c, Non-conventional Energy Development Corporation of A.P. Ltd. Hyderabad.
3. 2 CD copies.